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WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER



ARIZONA CORPORATION COMMISSION

BRIAN C. McNEIL  
EXECUTIVE SECRETARY  
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DATE: JULY 9, 2001

DOCKET NO: T-03940A-00-0771

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Stephen Gibelli.  
The recommendation has been filed in the form of an Order on:

LIGHTSOURCE TELECOM I, LLC  
(CC&N/FACILITIES-BASED)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

JULY 18, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JULY 24, 2001 AND JULY 25, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
CHAIRMAN

3 JIM IRVIN  
COMMISSIONER

4 MARC SPITZER  
COMMISSIONER

5  
6 IN THE MATTER OF THE APPLICATION OF  
LIGHTSOURCE TELECOM I, LLC FORMERLY  
7 KNOWN AS DYNAMIC TELECOM  
ENGINEERING I, LLC FOR A CERTIFICATE OF  
8 CONVENIENCE AND NECESSITY TO PROVIDE  
COMPETITIVE FACILITIES-BASED AND  
9 RESOLD LOCAL EXCHANGE,  
INTEREXCHANGE, AND EXCHANGE ACCESS,  
10 TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03940A-00-0771

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

11 DATE OF HEARING: May 30, 2001

12 PLACE OF HEARING: Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE: Mr. Stephen Gibelli

14 APPEARANCES: Mr. James Muskovitz, Senior Counsel, on behalf of  
LightSource Telecom I, LLC;

15 Ms. Teena Wolfe, Staff Attorney, Legal Division, on  
16 behalf of the Utilities Division of the Arizona  
Corporation Commission.

17 **BY THE COMMISSION:**

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. LightSource Telecom I, LLC formerly Dynamic Telcom Engineering I, LLC  
22 ("LightSource" or "Applicant") is an Ohio Limited Liability Company, authorized to do business in  
23 Arizona since 2000.

24 2. On October 2, 2000, LightSource filed with the Commission an application for a  
25 Certificate of Convenience and Necessity ("Certificate") to provide competitive facilities-based and  
26 resold local exchange, interexchange, and exchange access telecommunications services in Arizona.

27 3. On November 2, 2000, LightSource filed an update to its application.

28 4. On January 22, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff

1 Report, which recommended approval of the application and included a number of additional  
2 recommendations.

3 5. On January 30, 2001, a Procedural Order was issued scheduling the matter for hearing  
4 on May 30, 2001.

5 6. On April 10, 2001, LightSource filed an Affidavit of Publication indicating  
6 compliance with the Commission's notice requirements.

7 7. Pursuant to the Commission's January 30, 2001 Procedural Order, a hearing was held  
8 on May 30, 2001, and LightSource and Staff presented evidence.

9 8. On June 4, 2001, the Applicant filed a letter indicating that it has changed its name  
10 from Dynamic Telcom Engineering I, LLC to LightSource Telecom I, LLC.

11 9. The management of LightSource has many years of experience in the  
12 telecommunications industry.

13 10. LightSource has the technical capability to provide the services that are proposed in its  
14 application.

15 11. Currently there are several incumbent providers of local exchange telecommunications  
16 services in the service territory requested by Applicant, and at least several other entities have been  
17 authorized to provide competitive local exchange services in all or portions of that territory.

18 12. It is appropriate to classify all of LightSource's authorized services as competitive.

19 13. The Staff Report stated that LightSource has no market power and the reasonableness  
20 of its rates would be evaluated in a market with numerous competitors.

21 14. According to Staff, LightSource has submitted a summary of the audited financial  
22 statements of its parent company for the year ended December 31, 1999. These financial statements  
23 list assets of \$681,735 and total shareholders' equity of \$597,394. Staff believes that LightSource  
24 lacks sufficient financial strength to offer the requested telecommunications services in Arizona  
25 absent the procurement of a performance bond.

26 15. Staff recommends that LightSource's application for a Certificate to provide  
27 competitive facilities-based and resold local exchange, interexchange, and access telecommunications  
28 services be granted subject to the conditions that:

- (a) unless it provides services solely through the use of its own facilities, LightSource procure an Interconnection Agreement before being allowed to offer local exchange service;
- (b) LightSource file with the Commission, within 30 days of an Order in this matter, its plan to have its customers telephone numbers included in the incumbent's Directories and Directory Assistance databases;
- (c) LightSource pursue permanent number portability arrangements with other LECs pursuant to Commission rules, federal laws and federal rules;
- (d) LightSource abide by and participate in the AUSF mechanism instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-T-03908A-00-0559E-95-0498);
- (e) LightSource abide by the quality of service standards that were approved by the Commission for USWC in Docket No. T-0151B-93-0183;
- (f) in areas where LightSource is the sole provider of local exchange service facilities, LightSource provide customers with access to alternative providers of service pursuant to the provisions of Commission rules, federal laws and federal rules;
- (g) LightSource certify, through the 911 service provider in the area in which it intends to provide service, that all issues associated with the provision of 911 service have been resolved with the emergency service providers within 30 days of an Order in this matter;
- (h) LightSource abide by all the Commission decisions and policies regarding CLASS services;
- (i) LightSource provide 2-PIC equal access;
- (j) LightSource certify that all notification requirements have been completed by filing appropriate affidavits prior to a final determination in this proceeding;
- (k) notify the Commission immediately upon changes to LightSource's address or telephone number;
- (l) LightSource comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
- (m) LightSource maintain its accounts and records as required by the Commission;
- (n) LightSource file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
- (o) LightSource maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
- (p) LightSource cooperate with the Commission investigations of customer complaints; and,
- (q) LightSource participate in and contribute to a universal service fund, as required by the Commission.

1  
2 16. Staff further recommended that LightSource's tariffs be approved on an interim basis  
3 subject to the following:

- 4 (a) That LightSource file conforming tariffs within 30 days of an Order in this  
5 matter, and in accordance with the Decision;
- 6 (b) That LightSource should be required to file in this Docket, within 18 months of  
7 the date it first provides service following certification, sufficient information  
8 for Staff analysis and recommendation for a fair value finding, as well as for an  
9 analysis and recommendation for permanent tariff approval. This information  
10 must include, at a minimum, the following:
- 11 1. A dollar amount representing the total revenue for the first twelve  
12 months of telecommunications service provided to Arizona customers  
13 by LightSource following certification, adjusted to reflect the  
14 maximum rates that LightSource has requested in its tariff. This  
15 adjusted total revenue figure could be calculated as the number of units  
16 sold for all services offered times the maximum charge per unit.
  - 17 2. The total actual operating expenses for the first twelve months of  
18 telecommunications service provided to Arizona customers by  
19 LightSource following certification.
  - 20 3. The value of all assets, listed by major category, including a description  
21 of the assets, used for the first twelve months of local exchange and  
22 interexchange telecommunications services provided to Arizona  
23 customers by LightSource following certification. Assets are not  
24 limited to plant and equipment. Items such as office equipment and  
25 office supplies should be included in this list.
- 26 (c) LightSource's failure to meet the condition to timely file sufficient information  
27 for a fair value finding and analysis and recommendation of permanent tariffs  
28 shall result in the expiration of the Certificate of Convenience and Necessity  
and of the tariffs.

17. In order to protect LightSource's Arizona customers, Staff is also recommending that:

- 24 (a) LightSource procure a performance bond equal to \$100,000. The minimum  
25 bond amount of \$100,000 should be increased if at any time it would be  
26 insufficient to cover prepayments or deposits collected from LightSource's  
27 customers;
- 28 (b) if LightSource desires to discontinue service, it should file an application with  
the Commission pursuant to A.A.C. R14-2-1107;

- 1 (c) LightSource should be required to notify each of its customers and the  
2 Commission 60 days prior to filing an application to discontinue service  
3 pursuant to A.A.C. R14-2-1107; and any failure to do so should result in  
4 forfeiture of LightSource's performance bond;  
5  
6 (d) proof of the performance bond should be docketed within 90 days of an Order  
7 in this matter or 30 days prior to the provision of service, whichever comes  
8 first, and must remain in effect; however  
9  
10 (e) if at some time in the future LightSource's financial outlook improves,  
11 LightSource can file a request for cancellation of its established performance  
12 bond. Such request should be accompanied by information demonstrating  
13 LightSource's financial ability. Upon receipt of such filing and after Staff  
14 review, Staff will forward its recommendation to the Commission.

15 18. On August 29, 2000, the Court of Appeals, Division One, ("Court") issued its Opinion  
16 in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of  
17 the Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all  
18 public service corporations in Arizona prior to setting their rates and charges."

19 19. On October 26, 2000, the Commission filed a Petition for Review to the Arizona  
20 Supreme Court.

21 20. On February 13, 2001, the Commission's Petition was granted. However, at this time  
22 we are going to request FVRB information to insure compliance with the Constitution should the  
23 ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also are  
24 concerned that the cost and complexity of FVRB determinations must not offend the  
25 Telecommunications Act of 1996.

### 26 CONCLUSIONS OF LAW

27 1. Applicant is a public service corporation within the meaning of Article XV of the  
28 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

1 2. The Commission has jurisdiction over Applicant and the subject matter of the  
2 application.

3 3. Notice of the application was given in accordance with the law.

4 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a  
5 Certificate to provide competitive telecommunications services.



operation under the Certificate granted by the Commission, LightSource can file a request for cancellation of its established performance bond. Such request should be accompanied by information demonstrating LightSource's financial ability. Upon receipt of such filing and after Staff review, Staff will forward its recommendation to the Commission.

IT IS FURTHER ORDERED that LightSource Telecom I, LLC shall comply with all of the Staff recommendations set forth in Findings of Fact Nos. 15, 16, and 17.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2001.

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

SG:dap



1 SERVICE LIST FOR: LIGHTSOURCE TELECOM I, LLC

2 DOCKET NO.: T-03940A-00-0771

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